



House of Representatives

File No. 696

General Assembly

February Session, 2004

(Reprint of File No. 102)

House Bill No. 5114
As Amended by House
Amendment Schedules "A" and "B"

Approved by the Legislative Commissioner
May 1, 2004

**AN ACT CONCERNING REVISIONS TO THE UNDERGROUND
STORAGE TANK ACCOUNT PROVISIONS AND A STAY OF CERTAIN
ADMINISTRATIVE COSTS AND ACCRUAL OF INTEREST.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (d) of section 22a-449d of the general statutes
2 is repealed and the following is substituted in lieu thereof (*Effective*
3 *from passage*):

4 (d) To the extent that funds are available in the residential
5 underground heating oil storage tank system clean-up subaccount, the
6 board may order payment from such subaccount to registered
7 contractors for reimbursement of eligible costs for services associated
8 with the remediation of a residential underground heating oil storage
9 tank system prior to July 1, 2001, to owners of such systems for
10 payment for eligible costs incurred after July 1, 2001. No such payment
11 shall be authorized unless the board deems the costs reasonable based
12 on the guidelines established pursuant to subsection (c) of this section.
13 Notwithstanding the provisions of this subsection, if the board
14 determines that the owner may not receive reimbursement payment

15 from the contractor, the board may, if reimbursement has not been sent
16 to the contractor, directly reimburse the owner of such system for
17 eligible costs incurred by the owner and paid to the registered
18 contractor for services associated with a remediation of a system prior
19 to July 1, 2001.

20 Sec. 2. Subdivision (1) of subsection (c) of section 22a-449l of the
21 general statutes is repealed and the following is substituted in lieu
22 thereof (*Effective from passage*):

23 (c) (1) In order to receive reimbursement of eligible costs for services
24 commenced after July 1, 1999, and prior to July 1, 2001, a registered
25 contractor shall on or before December 1, 2001, submit to the
26 Underground Storage Tank Petroleum Clean-Up Account Review
27 Board established under section 22a-449d, as amended by this act, for a
28 disbursement from the residential underground heating oil storage
29 tank system clean-up subaccount, all reasonable costs for work
30 commenced prior to July 1, 2001, pursuant to a contract with the owner
31 or the state for the remediation of a residential underground heating
32 oil storage tank system for the purpose of providing payment for the
33 costs of such remediation. An owner of a residential underground
34 heating oil storage tank system shall not be responsible to the
35 registered contractor or any subcontractor of the registered contractor
36 for any costs that are eligible for payment from the residential
37 underground heating oil storage tank system clean-up subaccount
38 over five hundred dollars. The registered contractor or any
39 subcontractor shall not bill the owner for any costs eligible for
40 payment from said subaccount over five hundred dollars unless the
41 contractor or subcontractor enters into a separate written contract with
42 the owner, on a form prescribed by the commissioner, authorizing the
43 contractor or subcontractor to bill the owner more than five hundred
44 dollars and such separate contract gives the owner the right to cancel
45 such contract up to three days after entering into it. Such owner shall
46 provide to the review board a statement confirming the registered
47 contractor has been engaged by such owner to remove or to replace
48 such residential underground heating oil storage tank system and

49 perform the remediation and shall execute an instrument which
50 provides for payment to said account of any amounts realized by the
51 owner, after any costs of litigation or attorney's fees have been paid,
52 from a judgment or settlement regarding any claim for the costs of
53 such remediation made against an insurance policy or any party. In
54 any service contract entered into between a registered contractor and
55 an owner for the remediation of a residential underground heating oil
56 storage tank system, the registered contractor shall clearly identify all
57 costs, including markup costs, that are not or may not be eligible for
58 payment from said subaccount.

59 Sec. 3. Subsection (d) of section 22a-449l of the general statutes is
60 repealed and the following is substituted in lieu thereof (*Effective from*
61 *passage*):

62 (d) Neither the Underground Storage Tank Petroleum Clean-Up
63 Account Review Board nor the Commissioner of Environmental
64 Protection shall accept applications pursuant to this section on or after
65 December 1, 2001, for the reimbursement of eligible costs for services
66 completed prior to July 1, 2001, except that, notwithstanding
67 subsection (c) of this section, prior to July 1, 2004, the board may accept
68 applications for reimbursement from and make payments to any
69 owner who demonstrates that the owner paid for eligible costs for
70 services provided to the owner prior to July 1, 2001, and either (1) the
71 registered contractor filed an application for reimbursement between
72 December 1, 2001, and January 1, 2003, or (2) the owner, prior to May
73 1, 2003, filed a complaint with the board or the commissioner
74 regarding the failure of the registered contractor to file a timely
75 application.

76 Sec. 4. (*Effective from passage*) The assessment of administrative costs
77 and the accrual of interest on the actual cost pursuant to section 22a-
78 451 of the general statutes shall be stayed for any person who owns
79 property on which a residential dwelling is located from which lead
80 paint residue was removed with funds from the emergency spill
81 response account established pursuant to said section after January 1,

82 2002, and prior to December 31, 2002, during the pendency of a federal
83 or state criminal investigation or prosecution of a licensed home
84 improvement contractor for causing such property to be contaminated
85 with lead paint residue.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Environmental Protection	GF - Cost	See Below	See Below
Department of Environmental Protection	GF - Revenue Loss	Potential Minimal	Potential Minimal
Treasurer, Debt Serv.	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Allowing the Underground Storage Tank Petroleum Clean-Up Account Review Board to reimburse owners directly under specific circumstances and allowing contractors to receive reimbursement for work performed under a contract with the state, will increase costs to the state. The liability for these claims is \$81,994, and there is an additional potential liability of \$357,650 for a total cost of \$439,644. Payment of these claims would leave a balance of approximately \$27,525 of allocated but unused GO bond funds. In addition, \$1.25 million in GO bond funds remain authorized, but unallocated for the program. Any expansion of the program which would result in the use of additional authorized bond funds would increase debt service costs in future years. At the current time, no additional claim reimbursements beyond the \$439,644 are anticipated to qualify under this legislation.

The bill would also eliminate the accrual of interest to the state during the pendency of a federal or state criminal investigation or persecution on a \$40,000 remediation case, at an interest rate of 10% if the homeowner in the specified case is found liable. In the event the contractor is found liable, no revenue loss would be incurred.

House "A" makes a technical change and House "B" adds the provisions concerning the stay on assessment of costs and could result in a potential revenue loss.

OLR BILL ANALYSIS

HB 5114 (as amended by House "A" and "B")*

AN ACT CONCERNING REVISIONS TO THE UNDERGROUND STORAGE TANK ACCOUNT PROVISIONS**SUMMARY:**

This bill expands the circumstances under which the Underground Storage Tank Petroleum Clean-Up Account Review Board may reimburse certain homeowners and contractors for their clean-up costs.

It stays some costs associated with the removal of lead paint from certain property while a criminal investigation is pending.

*House Amendment "A" extends the deadline by which certain homeowners may apply for reimbursement until July 1, 2004, rather than closing applications as of July 1, 2003.

*House Amendment "B" adds the lead paint provision.

EFFECTIVE DATE: Upon passage

UNDERGROUND STORAGE TANK CLEAN-UP COSTS

Under current law, the board may order reimbursement from available funds in the residential underground heating oil storage system clean-up account for eligible residential underground storage tank remediation costs to (1) registered contractors, for eligible remediation costs incurred before July 1, 2001 and (2) owners, for eligible costs incurred after July 1, 2001. The deadline for contractors to apply was December 1, 2001. This bill allows the board to reimburse owners directly for remediation costs incurred before July 1, 2001 for which the owner paid the contractor if the board determines (1) it has not yet reimbursed the contractor and (2) the contractor may not reimburse the owner.

The bill also authorizes the board to reimburse owners who paid for services completed before July 1, 2001 if the owner applies to the board

for reimbursement before July 1, 2004 and (1) the registered contractor applied for reimbursement between December 1, 2001 and January 1, 2003, or (2) the owner filed a complaint with the board or commissioner before May 1, 2003 regarding the contractor's failure to apply by the December 1, 2001 deadline.

Under the current law, a contractor can receive reimbursement for work begun before July 1, 2001 only if he performed the work under a contract with a homeowner. The bill allows a contractor to receive reimbursement for work performed under a contract with the state.

LEAD PAINT REMOVAL

By law, anyone who pollutes the state's land or waters or causes a toxic waste spill is liable for the costs and expenses of clean-up, plus (1) administrative costs of 10% of the actual costs and (2) 10% annual interest on the actual cost, starting 30 days from the date the state seeks such costs and expenses.

The Department of Environmental Protection (DEP) commissioner may contract to have the spill or pollution remediated and may ask the attorney general to bring a civil action to recover the costs and expenses of such contractual obligations from the responsible party.

PA 03-276 stayed for one year, from the date such costs were sought, the assessment of (1) administrative costs and (2) interest from a responsible party who owns property on which there is a residential dwelling from which DEP removed lead paint between January 1 and December 31, 2002. A licensed contractor must have removed the lead paint.

The bill stays these costs and interest in such a case where (1) lead paint residue was removed with funds from DEP's emergency spill response account and (2) a federal or state criminal investigation or prosecution of a licensed home improvement contractor for causing such contamination is pending.

BACKGROUND

Underground Storage Tank Petroleum Clean-up Account

This program exempts owners of residential underground storage

tanks from civil liability to the state for costs related to an oil spill if the owner had the tank removed or replaced by December 31, 2001 and met certain other requirements. The law also provides reimbursement for costs of remediating spills found during the removal or replacement of the storage tanks.

Legislative History

On March 23, the House referred the bill (File 102) to the Finance, Revenue and Bonding Committee, which favorably reported it on March 29.

COMMITTEE ACTION

Environment Committee

Joint Favorable Report

Yea 22 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report

Yea 45 Nay 0